

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SCOTT M. EPSTEIN,

Plaintiff,

v.

C.R. BARD, INC., *et al.*,

Defendants.

Civil Action No. 03 CV 12297 (RWZ)

RECEIVED  
JAN 29 2004  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**DEFENDANT C.R. BARD, INC.'S MOTION TO DISMISS COUNTS II, III, IV, V,  
VI, VII, VIII AND X OF PLAINTIFF'S COMPLAINT**

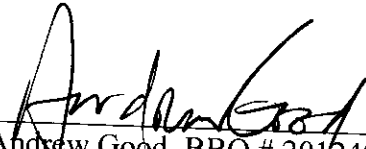
Defendant C.R. Bard, Inc. hereby moves to dismiss Counts II, III, IV, V, VI, VII, VIII and X of Plaintiff's Complaint on the following grounds:

1. Pursuant to Fed.R.Civ. P. 12(b)(6), each of the eight counts fails to state a claim upon which relief can be granted.
2. Pursuant to Fed.R.Civ. P. 12(b)(1), this court lacks jurisdiction over the subject matter of Counts VI, VII and VIII.

The grounds for this motion are fully stated in the accompanying Memorandum of Law.

Defendant C.R. Bard, Inc. hereby requests oral argument.

Respectfully Submitted,

  
Andrew Good, BBO # 201240  
GOOD & CORMIER  
83 Atlantic Avenue  
Boston, MA 02110  
Tel. (617) 523-5933  
Fax (617) 523-7554

Attorney for C.R. Bard, Inc.


**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon all attorneys of record on December 29, 2003 by first-class mail:

Gary E. Lambert, Esq.  
92 State Street, Suite 200  
Boston, MA 02109

Michael Albert, Esq.  
600 Atlantic Avenue  
Boston, MA 02210

Samuel Levy, Esq.  
Wuersch & Gering, LLP  
11 Hanover Square, 19<sup>th</sup> Floor  
New York, NY 10005

  
\_\_\_\_\_  
Andrew Good